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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,419	06/29/2001	Steve Arnold	367.40293X00	5220
20457	7590	11/01/2005	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-3873			DHARIA, PRABODH M	
			ART UNIT	PAPER NUMBER
			2673	
DATE MAILED: 11/01/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/893,419	ARNOLD, STEVE
	Examiner Prabodh M. Dharia	Art Unit 2673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 September 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-4,6,8,11,12 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) 5,7,9,10,13-15 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-4,6,8,11,12,16-27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06-29-01,01-13-04.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

1. **Status:** Receipt is acknowledged of papers submitted on 10-03-2003 under request for reconsideration have been placed of record in the file. Claims 1-4, 6,8, 11,12, 16-27 are pending in this action. Claims 5,7,9,10,13-15 are cancelled.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 6, 8, 11,12,16-22,25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keen (5,638,438) further in view of Kemp et al. (6,822,634 B1).

Regarding **independent claims 1, 11, and 25-27**, Keen teaches an apparatus for selecting an item from a predetermined set of items by teaching a touch screen that operates by selecting a button from the display page wherein the selected button is linked to a first node of the repertory (column 4, lines 43-50).

Furthermore, Keen teaches a predetermined set of items by teaching a touch screen display page (102) comprising dial buttons (104) containing predetermined set of items such as information regarding family (104A), friends (104B), Police (104C) etc. (figure 1 at 104A-104G), organized in a menu comprising a first menu (first node) and second menu (second node) levels (*see Abstract; see also figure 6A at 604, 606, 608.*

Furthermore, Keen teaches a user interface comprising a plurality of actuators by teaching a touch screen interface 418 that monitors the screen 417 and detects when the screen 417 was touched (column 6, lines 8-17, figure 4 at 418, 417).

Also, Keen teaches a control means by teaching a processor 406 that operates in accordance with control logic 410 (column 5, lines 44-52, figure 4 at 406, 410) wherein actuators are provided in the form of touch screen buttons (column 6, lines 31-38) which represent different menu items such as a first menu item representing family (104A), friends (104B), Police (104C) etc. (figure 1 at 104A-104G). There is a one-to-one correspondence of menu items and actuators (buttons) such that the number of menu items does not exceed the number of buttons for a particular menu level (*see* figure 1 at 104A-104G).

Furthermore, Keen teaches a selection means by means of buttons for selecting a first item that is associated with the button (*see e.g.*, column 6, lines 53-55, figure 1, 3 at 104, 301, 302).

Also, Keen teaches how the processor 406 operates in accordance with control logic 410, determines to determine that the family button is associated with the family node in the repertory 301 wherein the touch screen interface 418 detects the pressing of the family button 104, and sends a digital code corresponding to this touch that is coincident of the family button to the processor 406 (*see* column 6, lines 56-66). Furthermore, Keen teaches how the second menu level comprising a second number of menu items in response to selection of the first item so that at least one menu item of the second menu selection represents a subset of the first item, the second number being less than the first number and the actuator operated is not associated with a menu item of the second selection (*see* figures 1 wherein pressing family 104A yields figure 2 with names of members of the family; *see also* figures 3, 6A, 6B).

However, Keen fails to teach inter-alia selection means responsive to operation of the actuators with not same actuated operator position and where number of actuator in the second menu is less than first.

However, Kemp et al. teaches inter-alia selection means responsive to operation of the actuators with not same actuated operator position (Col. 2, Lines 1-60) and where number of actuator in the second menu is less than first (see figure 4-6, Col. 6, Lines 19-67).

Thus, it would have been obvious to a person of ordinary skill in the art to combine Keen and Kemp et al. because while Keen teaches input devices via buttons, Kemp et al. teaches how an inter-alia selection means responsive to operation of the actuators with not same actuated operator position (Col. 2, Lines 1-60) and where number of actuator in the second menu is less than first (see figure 4-6, Col. 6, Lines 19-67). The motivation for combining these inventions would have been provide a system with a handheld control device in which the risk of unintentional control actuations is reduced without an additional control actuation or an additional button being required (Col. 2, Lines 1-6).

Regarding **claims 2 and 3**, in further discussion of claim 1, Keen teaches how the plurality of actuators are key means in the form of touch screen buttons (column 6, lines 31-38).

Regarding **claim 8**, in further discussion of claim 1, Keen how the second level selection comprises less items than the number of buttons shown in figure 1 (*see figure 1 & 3 at 104, 304*).

Kemp et al. teaches inter-alia selection means responsive to operation of the actuators with not same actuated operator position (Col. 2, Lines 1-60) and where number of actuator in the second menu is less than first (see figure 4-6, Col. 6, Lines 19-67).

Regarding **claims 16 and 17**, in further discussion of claim 2, Keen teaches how the plurality of items selected do not exceed the number of buttons, for example, in figure 1, there are 10 buttons and the selected items do not exceed this number (*see figure 1, 3, 6A, 6B*).

Kemp et al. teaches inter-alia selection means responsive to operation of the actuators with not same actuated operator position (Col. 2, Lines 1-60) and where number of actuator in the second menu is less than first (see figure 4-6, Col. 6, Lines 19-67).

Regarding **claims 21 and 22**, in further discussion of claims 1 and 11, Keen teaches how a user navigates through the hierarchical repertory using the create new telephone number button 110 (figure 1 at 110).

4. **Claims 4, 6, 23 and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over *Keen* (U.S. 5,638,438) in view of Kemp et al. (6,822,634 B1) as applied to claims 1-3, 6, 8, 11,12,16-22 and 25-27 and further in view of Hale et al. (5,870,689).

Regarding claims 4, 6, 23 and 24, in further discussion of claims 1 and 11, Keen modified by Kemp et al. teaches the use of buttons as in the input device (column 6, lines 31-38).

However, Keen modified by Kemp et al. does not teach a joystick as an input device. On the other hand, Hale et al. teaches how a Joystick type switch would be used as a multi-positional input selection device in a inter-alia display system (Col. 5, Line 50 to Col. 6, Line 15).

Thus, it would have been obvious to a person of ordinary skill in the art to combine Keen and Jones because while Keen modified by Kemp et al. teaches input devices via buttons (multi-positional rotary switch, Col. 2, Lines 37,38), Hales et al. teaches how a Joystick type switch would be used as a multi-positional input selection device in a inter-alia display system (Col. 5, Line 50 to Col. 6, Line 15). The motivation for combining these inventions would have been to provide an alternative input means that allows for the selection of one of the displayed menu items (Col. 5, Line 50 to Col. 6, Line 15).

Regarding claims 18-20, in further discussion of claim 4, Keen teaches how the plurality of items selected do not exceed the number of buttons, for example, in figure 1, there are 10 buttons and the selected items do not exceed this number (*see* figure 1, 3, 6A, 6B).

Kemp et al. teaches inter-alia selection means responsive to operation of the actuators with not same actuated operator position (Col. 2, Lines 1-60) and where number of actuator in the second menu is less than first (*see* figure 4-6, Col. 6, Lines 19-67).

Response to Arguments

5. Applicant's arguments with respect to claims 1, 11, and 25-27, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schliekelmann et al. (6,100,994) Reproduction device for copying, scanning or printing image provided with an improved user interface.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prabodh M. Dharia whose telephone number is 571-272-7668. The examiner can normally be reached on M-F 8AM to 5PM.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bipin Shalwala can be reached on 571-272-7681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

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October 26, 2005



VIJAY SHANKAR
PRIMARY EXAMINER